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Before the
Federal Communications Commission
Washington, D.C. 20554

FCC 07M-42
06666

In the Matter of) PS Docket No. 07-69
)
CITY OF BOSTON) Mediation No. TAM-11155
)
and)
)
SPRINT NEXTEL CORPORATION)
)
Relating to Rebanding Issues in the)
800 MHz Band)

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ORDER

Issued: October 30, 2007 ; Released: October 31, 2007

This is a ruling on Nextel's Request for Conference on October 31, 2007, that was filed on October 23, 2007. The request will be denied at this time, and there shall be no formal conference held on October 31, 2007.

Nextel believes a conference at this time would facilitate resolution of a recently raised (but not set) issue concerning legal fees incurred by Boston. In Comments filed on October 26, 2007, Boston contends that it could not provide an estimate of these fees during "pendency of the controversy" but prior to the Commission's decision regarding "post-mediation legal costs." (Emphases added.) Boston would not object to a conference on procedures, but it would object to any discussion on substance, and it "sees no value in the requested conference." The Enforcement Bureau has no objection to attending a conference but does not join in Nextel's request.

By Order (FCC 07M-41), released October 19, 2007, Nextel and Boston were ordered to resolve by November 19, 2007, the newly raised issue regarding Boston's legal fees, and if not this case will be returned to hearing status. Since October 19, 2007, the parties have known of the issue and had ample opportunity to resolve it through negotiation. There remains only an issue of legal fees which, once resolved, the case can be terminated. More importantly, since only Nextel desires a conference on an issue that seems to be understood by all parties, there seems little value in holding a conference at this time to clarify the issue.¹

¹ It is noted that there also is a pending motion by Nextel to formally add the question of legal fees as an issue. That motion is subject to a pleading cycle yet to be completed. See 47 CFR § 1.229(b)(1)(3)

Accordingly, IT IS ORDERED that the request of Nextel for a formal prehearing conference on October 31, 2007, IS DENIED.

IT IS FURTHER ORDERED that there will be no formal prehearing conference held on litigating Boston's fees, unless the Boston and Nextel parties are unable to resolve the issue by November 19, 2007.

IT IS FURTHER ORDERED that Nextel and Boston shall file a Status Report (joint preferred) by 3:00 p.m. on November 13, 2007, on the progress of negotiations and the estimated prospects for final resolution of all issues without litigation.²

FEDERAL COMMUNICATIONS COMMISSION³



Richard L. Sippel
Chief Administrative Law Judge

² There is a variance of views on procedures and timing for review of FSA by the TA required for terminating the case. The parties have stated their positions in current pleadings and if by November 13, 2007, there is no agreement on those procedures an appropriate ruling will be issued by the Presiding Judge.

³ Courtesy copies of this Order were e-mailed to all counsel on date of issuance.